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Clerk of the
Appellate Courts

IN THE COURT OF APPEALS OF TENNESSEE
AT NASHVILLE
Assigned on Briefs May 1, 2023

**REGINOL L. WATERS v. TENNESSEE DEPARTMENT
OF CORRECTION, ET AL.**

**Appeal from the Chancery Court for Hickman County
No. 21-CV-7115 Michael E. Spitzer, Chancellor**

No. M2022-00316-COA-R3-CV

This appeal arises from the dismissal of a petition for common law writ of certiorari in which the petitioner, an inmate in the custody of the Tennessee Department of Correction (“TDOC”), appeals a disciplinary conviction for “unauthorized financial transactions activity” by the Disciplinary Board at the Turney Center Industrial Complex. The respondents, the State of Tennessee and several governmental officials, filed a joint motion to dismiss the petition on the grounds that the petition was not properly verified as required by Tennessee Code Annotated § 27-8-104 and the petitioner failed to pay the mandatory initial filing fee pursuant to Tennessee Code Annotated § 41-21-807. The chancery court granted the motion and dismissed the petition with prejudice on the grounds “the statutory requirements of T.C.A. § 27-8-104 and § 41-21-807 are mandatory and have not been met in this case, and failure to comply results in a defective filing by the Petitioner[.]” This appeal followed. We reverse the decision to dismiss based on the filing fee requirements under Tennessee Code Annotated § 41-21-807. Nevertheless, we affirm the dismissal of the petition with prejudice for lack of subject matter jurisdiction based on the petitioner’s failure to file a petition that complied with the verification requirements under Tennessee Code Annotated § 27-8-104 within 60 days of the entry of the judgment of which the petitioner seeks review.

**Tenn. R. App. P. 3 Appeal as of Right; Judgment of the Chancery Court Affirmed,
in part; Reversed, in part; and Remanded**

FRANK G. CLEMENT, JR., P.J., M.S., delivered the opinion of the court, in which ARNOLD B. GOLDIN and KRISTI M. DAVIS, JJ., joined.

Reginol L. Waters, Only, Tennessee, Pro Se.

Jonathan Skrmetti, Attorney General and Reporter, Andrée Sophia Blumstein, Solicitor General, and Katharine K. Decker, Senior Assistant Attorney General, for the appellees, the Tennessee Department of Corrections; Tony Parker, Commissioner, Tennessee

Department of Correction; Kevin Myers, Warden of the Turney Center Industrial Complex; Jason Gilbert, Chairperson of the Turney Center Disciplinary Board; and Turner Center Disciplinary Board Members Christa Jenkins and Wendy Warf Peone.

OPINION

FACTS AND PROCEDURAL HISTORY

On October 20, 2020, Reginol L. Waters (“Petitioner”), an inmate in the custody of the TDOC, received a disciplinary infraction for unauthorized financial transaction activity in Incident No. 01463198. The disciplinary report of the incident reads as follows:

DESCRIPTION: On 10/20/2020 at 1005 hours during a search of legal aide Reginol Waters 259758 a note signed “Pimp C” identified as Carl Ross 107454 assigned to RMSI was recovered in his work log. The note clearly indicates unauthorized financial transaction activity. For this offender Waters is charged with unauthorized financial activity. This entry was reviewed and approved by Captain Josh Paschall.

The report also states, as represented by Captain Josh Paschall, that the report was handed to Petitioner on October 20, 2020, and that Captain Paschall informed Petitioner of his rights, including his “limited right to remain silent and to be represented by an offender advisor,” but Petitioner refused to sign the report.

Petitioner appealed the disciplinary conviction to Warden Kevin Meyers who affirmed the decision. He then appealed to TDOC Commissioner Tony Parker who also affirmed the decision.

Petitioner delivered his pro se petition for common law writ of certiorari to the appropriate individual at the correctional facility on March 8, 2021, which the Clerk and Master of the Hickman County Chancery Court subsequently filed on March 11, 2021.¹ The respondents named in the petition include the Tennessee Department of Corrections; Tony Parker, Commissioner, Tennessee Department of Correction; Kevin Myers, Warden of the Turney Center Industrial Complex; Jason Gilbert, Chairperson of the Turney Center Disciplinary Board; and Turner Center Disciplinary Board Members Christa Jenkins and Wendy Warf Peone (hereinafter “Respondents”).

¹ The Commissioner affirmed the underlying decision on January 7, 2021; thus, the last day to timely file the petition was March 8, 2021. *See* Tenn. Code Ann. § 27-9-102; *Blair v. Tenn. Bd. of Prob. & Parole*, 246 S.W.3d 38, 40 (Tenn. Ct. App. 2007) (A petition for a writ of certiorari must be filed within 60 days of the entry of the order or judgment complained of.). By delivering the petition to the appropriate individual at the correctional facility on March 8, 2021, Petitioner filed his petition within the 60-day requirement.

Respondents challenged the legal sufficiency of the petition by filing a Tennessee Rule of Civil Procedure 12.02(1) motion to dismiss. They contended that dismissal was appropriate because the petition was not properly verified and Petitioner failed to pay the required filing fees. In their motion to dismiss, Respondents contended that

Rule 12.02(1) requires dismissal because this Court lacks subject matter jurisdiction over petitions that fail to meet the statutory and constitutional requirements for filing petitions for writ of certiorari. Here, dismissal is appropriate because Mr. Waters failed to verify his petition, in accordance with Tenn. Code Ann. § 27-8-104 and Article IV, Section 10 of the Tennessee Constitution. Additionally, he failed to pay mandatory court costs, pursuant to Tenn. Code Ann. § 41-21-807.

The motion was supported by a Memorandum of Law in which Respondents argued:

petitions for common law writ of certiorari are governed by statute and the State Constitution. Article VI, Section 10, of the Tennessee Constitution and Tenn. Code Ann. § 27-8-104(a) require that a petition for common law writ of certiorari be verified. *See Jackson v. Tenn. Dep't of Correction*, 240 S.W.3d 241, 245 (Tenn. Ct. App. 2006); *Wilson v. Tenn. Dept. of Correction*, W2005-00910-COA-R3-CV, 2006 WL 325933, at *3 (Tenn. Ct. App. Feb. 13, 2006); *Bowling v. Tenn. Bd. of Paroles*, No. M2001-00138-COA-R3-CV, 2002 WL 772695, at *3 (Tenn. Ct. App. Apr.30, 2002); *Depew v. King's, Inc.*, 276 S.W.2d 728, 729 (Tenn. 1955). Verify means “[t]o prove to be true; to confirm or establish the truth or truthfulness of.” *Black’s Law Dictionary* 1698 (9th ed. 2009). This sworn and notarized statement must “declare that the petition’s allegations are true to the best of the petitioner’s knowledge.” *Cason v. Little*, No. W2007-01910-COA-R3-CV, 2008 WL 2065194, at *3–4 (Tenn. Ct. App. May 15, 2008).

Respondents further argued that the “garbled language” in the verification “fails to expressly state that the allegations in the petition are true, and thus, fails to satisfy the verification requirement.” They also contend, “while he notarized the petition, by failing to include language explicitly stating that the contents of the petition are true, Mr. Waters failed to satisfy the verification requirement.”

Petitioner filed a response in opposition to the motion; he also attached documents contending that they established the fact that he had paid the required fees. On the same day, March 21, 2021, Petitioner moved to file an amended petition to cure the alleged defect in the verification. Petitioner’s response in opposition to the motion to dismiss reads in pertinent part:

14. Although there were typographical errors within the Verification Affidavit with the following words; “any other action filed on.” The Petitioner’s Verification Affidavit and the Respondents are squarely contradictory as to the proper verification language. Petitioner asserts that the language in his verification statement: “the claims included in these Writ of Certiorari are true and correct to the best of my knowledge, belief and understanding,” expressly establish the truth of the documents contents necessary to confer subject matter jurisdiction upon this Court. The Respondents, by contrast, claim while Mr. Waters notarized the petition, by failing to include language expressly stating that the contents of the petition are true, Mr. Waters failed to satisfy the verification requirements. . . . There is clearly a genuine issue of facts.

Respondents opposed the motion to amend on the basis of timeliness. Specifically, Respondents contended:

[I]t is too late for Mr. Waters to seek leave to amend his petition to include the proper verification language. Tenn. Code Ann. § 27-9-102 requires that Mr. Waters file his verified petition within sixty days from entry of the order or judgment complained of, January 7, 2021, the date his appeal was denied. . . . Thus, he had until March 8, 2021 to file a petition that included the necessary verification language. His failure to do so within the allotted time period deprives this Court of subject matter jurisdiction and warrants dismissal. *See Cason* 2008 WL 2065194, at *4.

The trial court dismissed the petition and implicitly denied the motion to amend by dismissing the petition with prejudice, stating in pertinent part:

the Court finds that the statutory requirements of T.C.A. § 27-8-104 and § 41-21-807 are mandatory and have not been met in this case, and failure to comply results in a defective filing by the Petitioner, as set forth in the Respondents’ Motion to Dismiss. Accordingly, the Respondents’ Motion to Dismiss is hereby granted, and this case is DISMISSED with prejudice.

Petitioner then filed a Rule 59.04 motion to alter or amend the above order “because it is necessary to correct manifest errors of law and facts upon which the Order is based and to prevent a manifest injustice upon the petitioner.” More specifically, the motion stated, “Mr. Waters contends that the Chancellor committed error by failing to address his request to strike out the words ‘or any other action filed on’ from the verification affidavit. The order as entered by the Chancellor omits any reference of the request argued by Mr. Waters in the motion for leave and his response in opposition to the motion to dismiss.” With regard to the issue concerning whether Petitioner paid the initial filing fees, the motion asserted:

the Chancery Court erred by ordering Mr. Waters petition to be dismissed when the Court disregarded the record which established that Mr. Waters met the statutory requirements of T.C.A. section 41-21-807. The record reflects in March, 2021, Ms. Kathy Covington who is Mr. Waters sister and “Power of Attorney” constituted and appointed to “conduct Mr. Waters financial affairs” forwarded to the Clerk and Master twenty-five (\$25.00) dollars to pay the initial partial filing fee in accordance with T.C.A. section 41-21-807 (b)(1).

The trial court denied the motion stating:

Upon a review of the entire record, pleading, briefs and memorandum, the Court cannot find any change in the controlling law from the date of filing and entry of the Order of Dismissal; newly discovered evidence that was unavailable at the time the case was considered; any flaw in the Court’s reasoning for dismissal of the Petition for Common Law Writ of Certiorari; nor any other reason to grant the Petitioner’s motion and therefore, the Petitioner’s Rule 59.04 motion is DENIED.

This appeal followed.

ISSUES

The issues raised by Petitioner, which we have restated, are:

1. Whether the chancery court erred by dismissing the petition for lack of subject matter jurisdiction on the basis that the petition failed to satisfy the requirements under Tennessee Code Annotated § 27-8-104?
2. Whether Tennessee Rule of Civil Procedure 15.03 applies and, if so, did the chancery court abuse its discretion by denying Petitioner’s motion to amend the petition to relate back to the filing of the petition?
3. Whether the chancery court erred by denying Petitioner’s motion to alter or amend the final order when new evidence was made available to prevent an injustice?

The issues as stated by Respondents read as follows:

1. Did the chancery court properly dismiss Petitioner’s petition on the grounds that it was not properly verified?

2. Did the chancery court properly deny Petitioner's motion to file an amended petition after the expiration of the 60-day period for filing a properly verified petition?
3. Did the chancery court properly deny Petitioner's motion to alter or amend its order dismissing the writ petition, where it correctly determined that Petitioner failed to properly verify the petition?
4. If this Court does not affirm the chancery court's judgment on the grounds that the writ petition was not properly verified, should this Court remand this case to the chancery court to entertain a Rule 60.02 motion to determine whether it properly dismissed the petition for failure to pay the required filing fees?

STANDARD OF REVIEW

A trial court's decision to grant a Rule 12.02 motion to dismiss is a question of law that we review de novo with no presumption of correctness. *See Webb v. Nashville Area Habitat for Human., Inc.*, 346 S.W.3d 422, 426 (Tenn. 2011).

Subject matter jurisdiction presents a question of law that this court reviews de novo without a presumption of correctness. *Northland Ins. Co. v. State*, 33 S.W.3d 727, 729 (Tenn. 2000).

ANALYSIS

I. VERIFICATION OF PETITION

As previously noted regarding a common law writ of certiorari and subject matter jurisdiction:

The common law writ of certiorari is the proper mechanism for challenging a prison disciplinary action. *Brown v. Little*, No. M2008-02644-COA-R3-CV [341 S.W.3d 275, 278-79], 2009 WL 2166061, at *2 (Tenn. Ct. App. July 20, 2009), *perm. app. denied* [(Tenn. Jan. 25, 2010)] (citing *Rhoden v. State Dep't of Corr.*, 984 S.W.2d 955, 956 (Tenn. Ct. App. 1998)). A petition for a writ of certiorari must be filed within sixty days of the entry of the judgment of which the petitioner seeks review. T.C.A. § 27-9-102 (2000); *Blair v. Tenn. Bd. of Prob. & Parole*, 246 S.W.3d 38, 40 (Tenn. Ct. App. 2007). "Failure to file the petition within this time limit results in the challenged judgment becoming final, which deprives a reviewing court of jurisdiction over the matter." *Blair*, 246 S.W.3d at 40 (citing *Wheeler v. City of Memphis*, 685 S.W.2d 4, 6 (Tenn. Ct. App. 1984)).

In addition to being timely filed, a petition for a writ of certiorari must be verified in accordance with Article 6, Section 10 of the Tennessee Constitution and Tennessee Code Annotated § 27-8-104(a). *Stephenson v. Town of White Pine*, No. 03A01-9705-CH-00185, 1997 WL 718974, at *1 (Tenn. Ct. App. Nov. 13, 1997). . . . Accordingly, a petition that fails to meet the verification requirement must be dismissed. *See Bowling v. Tenn. Bd. of Paroles*, No. M2001-00138-COA-R3-CV, 2002 WL 772695, at *3 (Tenn. Ct. App. Apr. 30, 2002), *no perm. app.* (citing *Depew v. King's, Inc.*, 197 Tenn. 569, 276 S.W.2d 728, 729 (Tenn. 1955); *Rhea County v. White*, 163 Tenn. 388, 43 S.W.2d 375, 378 (1931); *Drainage Dist. No. 4 of Madison County v. Askew*, 138 Tenn. 136, 196 S.W. 147, 148 (1917)).

Sepulveda v. Tenn. Bd. of Parole, 582 S.W.3d 270, 274 (Tenn. Ct. App. 2018) (quoting *Richmond v. Tenn. Dep't of Corr.*, No. M2009-01276-COA-R3-CV, 2010 WL 1730144, at *3 (Tenn. Ct. App. Apr. 29, 2010)) (footnote omitted); *see also Howard v. Turney Ctr. Disciplinary Bd.*, No. M2017-00230-COA-R3-CV, 2018 WL 625115, at *1–2 (Tenn. Ct. App. Jan. 30, 2018) and *Snow v. Turney Ctr. Disciplinary Bd.*, No. M2016-01148-COA-R3-CV, 2016 WL 7409846, at *4–5 (Tenn. Ct. App., Dec. 22, 2016).

Thus, in order for a common law writ of certiorari to be valid, “the petitioner must verify the contents of the petition and swear to the contents of the petition under oath[.]” *Sepulveda*, 582 S.W.3d at 274 (quoting *Jackson v. Tenn. Dep't of Corr.*, 240 S.W.3d 241, 245 (Tenn. Ct. App. 2006)); *see also* Tenn. Const. art. VI, § 10; Tenn. Code Ann. § 27-8-104. The legal significance of a proper verification of a petition and the distinction between verification and notarization was explained by the Tennessee Court of Criminal Appeals in *Montague v. State*, No. E2000-01330-CCA-R3-PC, 2001 WL 1011464, at *1 (Tenn. Crim. App. Sept. 4, 2001):

Discussion of verified documents usually arises in the context of analysis of properly acknowledged documents. In Tennessee, acknowledged documents are ones which have been notarized by a notary public or acknowledged in the presence of an official. *See generally* Cohen, Tennessee Law on Evidence § 9.02[10] (4th ed. 2000). As defined in Black’s Law Dictionary, “**verify**” means “[t]o prove to be true; to confirm or establish the truth or truthfulness of.” Black’s Law Dictionary 1561 (6th ed. 1990). Black’s further explains, as an example of verification, that “a verified complaint typically has an attached affidavit of plaintiff to the effect that the complaint is true.” *Id.* There is no doubt that the essence of a verification is truthfulness of the document’s contents. As Judge Koch explained in an opinion from the Court of Appeals, “[a]n acknowledgment establishes the proper execution of the document while a verification establishes the truth of the document’s contents.” *D.T. McCall & Sons v. Seagraves*, 796 S.W.2d

457, 463 (Tenn. Ct. App. 1990) (recognizing a distinction in Tennessee between an acknowledgment and a verification); *see also Varner v. Brown*, No. 03A01-9405-CV-00171, 1994 WL 666902, at *2 (Tenn. Ct. App. 1994) (discussing the difference between an acknowledged document and a verified document for purposes of self-authentication pursuant to Rule 902(8) of the Tennessee Rules of Evidence).

Id. at *1 (emphasis added). The Court of Criminal Appeals further explained that “merely swearing to having knowledge of the allegations contained in the petition is insufficient to qualify as a verification under oath. To conclude otherwise would allow a petitioner to file a petition which knowingly contained frivolous, false, and even perjured allegations or statements of facts.” *Id.* at *2; *see also Sepulveda*, 582 S.W.3d at 274–75.

Significantly, the “sworn and notarized statement accompanying the petition [for writ of certiorari] must declare that **the petition’s allegations are true** to the best of the petitioner’s knowledge.” *Cason v. Little*, No. W2007-01910-COA-R3-CV, 2008 WL 2065194, at *3 (Tenn. Ct. App. May 15, 2008) (emphasis added) (other citations omitted). As such, “a purported verification that does not establish the truth of the petition’s contents will not suffice.” *Sepulveda*, 582 S.W.3d at 275 (citations omitted).

To emphasize this point, in *Best v. Tenn. Dep’t of Corr.*, No. M2016-00513-COA-R3-CV, 2016 WL 5724895 (Tenn. Ct. App. Sept. 30, 2016), the court pointed to the petitioner’s use of the word, “Verified,” in the title of his notarized petition for writ of certiorari and also included the language, “Petitioner prays that this Court will . . . [take] that the contents of this Petition . . . as being true.” *Id.* at *2. The *Best* court held that the petitioner had not verified his petition in accordance with the requirements of Tennessee Code Annotated § 27-8-104(a) and that the trial court had properly dismissed the petition. *Id.* at *3. Similarly, in *Drumbarger v. State Bd. of Prob. & Parole*, No. M2011-00086-COA-R3CV, 2012 WL 184422 (Tenn. Ct. App. Jan. 20, 2012), where the petitioner included language in his notarized petition that he “verif[ied] that the preceding petition submitted ha[d] been placed therewith to the best of [his] knowledge and understanding. . .”, *id.* at *1, we affirmed the trial court’s holding that the petition was not properly verified because the petitioner’s statement did not “establish the truth of the document’s contents.” *Id.* at *2.

Likewise, in the *Sepulveda* case, we held that the trial court properly dismissed the petition for lack of subject matter jurisdiction because the petitioner “failed to affirm that the contents of his petition were true.” Because of this failure, we held that Mr. Sepulveda’s petition did not comply with the requirements of Article VI, Section 10 of the Tennessee Constitution and Tennessee Code Annotated § 27-8-104(a). *Sepulveda*, 582 S.W.3d at 276 (citing *Richmond*, 2010 WL 1730144, at *3); *see also Johnson v. South Cent. Corr. Facility Disciplinary Bd.*, No. M2012-02601-COA-R3-CV, 2013 WL 4803565, at *7 (Tenn. Ct.

App. Sept. 6, 2013); *Stewart v. Tenn. Bd. of Prob. and Parole*, No. M2007-01425-COA-R3-CV, 2008 WL 2743606, at *3 (Tenn. Ct. App. July 11, 2008).

Based on the foregoing authorities, it is readily apparent that a petitioner must strictly comply with the verification requirement to survive a petition to dismiss for lack of subject matter jurisdiction. In this case, Petitioner's "VERIFICATION AFFIDAVIT" states:

I, Reginol L. Waters #00259758 Petitioner in the attached Common Law Writ of Certiorari do hereby swear declare and affirm this is the first Writ of Certiorari or any other action filed on the claims included in these attached Writ of Certiorari are true and correct to the best of my knowledge belief and understanding. Further, affiant saith not.

However, as Respondents note in their appellate brief, Petitioner's "garbled language" fails to expressly state that "the claims in the petition are true." As Respondents correctly note, the words "are true and correct" appear in the verification but they have no grammatical connection to the words "swear declare and affirm." Moreover, the sentence is simply incoherent.

For these reasons, we hold that Petitioner failed to verify that the factual allegations in his petition were true. Because of this failure, the petition did not comply with the requirements of Tennessee Code Annotated § 27-8-104(a) and Article VI, Section 10 of the Tennessee Constitution. *See Sepulveda*, 582 S.W.3d at 276.

Verification is a constitutionally and statutorily mandated pleading requirement that cannot be waived, and petitions that lack proper verification must be dismissed for failure to properly vest the court with subject matter jurisdiction. *See Talley v. Bd. of Prof'l Responsibility*, 358 S.W.3d 185, 192 (Tenn. 2011); *see also Sepulveda*, 582 S.W.3d at 276. Accordingly, we affirm the dismissal of the petition for lack of subject matter jurisdiction.

II. INITIAL FILING FEES

Petitioner contends that the trial court erred by dismissing his petition upon the finding that he failed to pay the requisite initial filing fee.² Respondents do not admit that

² Under the Tennessee Prison Litigation Reform Act, indigent inmates are responsible for paying the costs of their filing fees. *See Chambers v. Tenn. Bd. of Prob. & Parole*, No. M2007-00042-COA-R3-CV, 2008 WL 204111, *1 (Tenn. Ct. App. Jan. 24, 2008); *see also* Tenn. Code Ann. § 41-21-807(b)(1). Section 807 requires an inmate proceeding upon a pauper's oath to also file certified copies of his trust fund account statements for the six months immediately preceding the filing of the petition. Tenn. Code Ann. § 41-21-807(a). The court shall then, when funds exist, collect a partial filing fee of 20% of the average monthly balance or deposits to the inmate's trust fund account for the months immediately preceding the

this was error but acknowledge that the record is, at best, uncertain on this fact. Nevertheless, as Respondents' appellate brief states:

This Court can affirm the chancery court's dismissal of Petitioner's petition based solely on Petitioner's failure to properly verify the petition. But if it does not affirm on that basis, this Court should remand this case to the chancery court to entertain a motion pursuant to Tennessee Rule of Civil Procedure 60.02 regarding the dismissal of the petition due to Petitioner's failure to pay his required filing fees.

We have determined that the record does not establish that Petitioner failed to pay the requisite filing fee. In fact, it appears that Petitioner's sister may have paid the requisite filing fee instead of it being withdrawn from his inmate account but, again, the record on appeal does not confirm such. Thus, we respectfully reverse the trial court's ruling that the petition should be dismissed on this ground. Nevertheless, we have affirmed the dismissal of the petition with prejudice on other grounds.

III. RULE 15 MOTION TO AMEND THE PETITION

Concurrent with filing his response in opposition to the motion to dismiss his petition, Petitioner filed a motion to amend the petition to cure any deficiencies that may be found in his verification of the petition. The trial court implicitly denied the motion to amend by dismissing the petition with prejudice.

Petitioner contends that this was error because the trial court should have allowed him to file an amended petition pursuant to Tennessee Rule of Civil Procedure 15.01 and that the amended petition should have been deemed timely filed under the "relate back" provision of Rule 15.03. Respondents contend there was no error because the 60-day period for filing a valid petition had expired on March 8, 2021; thus, the trial court lacked jurisdiction to grant the motion.

As Respondents correctly note, the Commissioner affirmed the underlying decision on January 7, 2021; thus, the 60-day filing period began to run on January 7, 2021. *See* Tenn. Code Ann. § 27-9-102; *Blair v. Tenn. Bd. of Prob. & Parole*, 246 S.W.3d 38, 40 (Tenn. Ct. App. 2007) (A petition for a writ of certiorari must be filed within 60 days of the entry of the order or judgment complained of.). As a consequence, Respondents contend the last day to cure a defective petition was March 8, 2021. In making this argument, Respondents principally rely on our decision in *Mhlanga v. State* in which we

filing of the petition. Tenn. Code Ann. § 41-21-807(b)(1). The partial filing fee is mandatory, regardless of whether the trial court issues an order specifying the amount. *See Chambers*, 2008 WL 204111, at *2 (holding that the "trial court was under no obligation to specify the initial partial payment [the petitioner] was required to make in order to proceed"). Failure to comply with Tenn. Code Ann. § 41-21-807 authorizes a trial court to summarily dismiss the action. *Id.*

held that Rule 15.01 is unavailing when the 60-day period for filing a valid petition has expired. *See Mhlanga v. State*, No. E2020-01411-COA-R3-CV, 2021 WL 2172083, at *3 (Tenn. Ct. App. May 27, 2021) (no perm. app. filed).

“If a petition for writ of certiorari is not verified and notarized, the court lacks subject matter jurisdiction to adjudicate the case.” *Mhlanga*, at *2 (citing *Talley v. Bd. of Prof'l Resp.*, 358 S.W.3d 185, 192 (Tenn. 2011); *Sepulveda*, 582 S.W.3d at 272). Moreover, “if a court lacks subject matter jurisdiction, it has no authority to decide a case.” *Id.* (citing *Jackson*, 240 S.W.3d at 243).

As noted above, the Commissioner affirmed the underlying decision on January 7, 2021; thus, the last day to timely file the petition was March 8, 2021. The motion to amend was filed more than 60 days after the entry of the judgment at issue. We have already determined that the petition at issue was not properly verified. As a consequence, the trial court lacked subject matter jurisdiction over Petitioner’s case when the motion to amend was filed. *See Mhlanga*, at *2; *Talley*, 358 S.W.3d at 192; *Sepulveda*, 582 S.W.3d at 272.

“Failure to file the petition within this time limit results in the challenged judgment becoming final, which deprives a reviewing court of jurisdiction over the matter.” *Sepulveda*, 582 S.W.3d at 274 (quoting *Blair*, 246 S.W.3d at 40) (citing *Wheeler v. City of Memphis*, 685 S.W.2d 4, 6 (Tenn. Ct. App. 1984)). Thus, a court simply has no jurisdiction to consider the amended petition under such circumstances. *Blair*, 246 S.W.3d at 41 (“To grant time in which to file [a] petition for certiorari after the expiration of the original term is a power not given to this court.”) (alteration omitted) (quoting *Crane Enamelware Co. v. Smith*, 76 S.W.2d 644, 645 (Tenn. 1934)). Because the court lacked subject matter jurisdiction over the case, it had no authority to grant Petitioner leave to file an amended petition. Further, because the trial court never had subject matter jurisdiction over Petitioner’s case, if it had granted the motion to amend, the amended petition would be a nullity.

For these reasons, we affirm the decision to deny the motion to amend the petition.

IV. RULE 59.04 MOTION TO ALTER OR AMEND THE JUDGMENT

Petitioner contends that the trial court erred by denying his Rule 59.04 motion to alter or amend the final order. For the reasons stated above, which need not be repeated, we find no error with any of the trial court’s decisions. Therefore, we affirm its decision to deny Petitioner’s Rule 59.04 motion to alter or amend the judgment.

IN CONCLUSION

The judgment of the trial court is affirmed, in part; reversed, in part; and remanded for further proceedings consistent with this opinion. Costs of appeal are assessed against Petitioner/Appellant, Reginol L. Waters, for which execution may issue.

FRANK G. CLEMENT JR., P.J., M.S.